

EXHIBIT

5

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED15 U.S.C. Section 1 -- Conspiracy in Restraint of Trade
Counts One and Two
☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

CHENG YUAN LIN, aka C.Y. LIN

DISTRICT COURT NUMBER

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FEDERAL BUREAU OF INVESTIGATION

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Lida Maher, Trial Attorney, ATD

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

 Defendant Address: Zen-ai Road, 3rd Section,
 Lane 5 / Alley, 1, Number 2 /
 Taipei, Taiwan

Date/Time: _____ Before Judge: _____

Comments:

PENALTY SHEET

Indivision: CHENG YUAN LIN, aka C. Y. LIN

COUNT ONE: 15 U.S.C. 1 (Conspiracy in Restrain of Trade)

Maximum Penalties:

1. A fine in an amount equal to the largest of:
 - A. \$1,000,000.00
 - B. Twice the gross pecuniary gain derived from the crime.
 - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of imprisonment for ten years.
3. A term of probation of at least one year but not more than five years.
4. \$100 special assessment.
5. Restitution.

COUNT TWO: 15 U.S.C. 1 (Conspiracy in Restraint of Trade)

Maximum Penalties:

1. A fine in an amount equal to the largest of:
 - A. \$1,000,000.00
 - B. Twice the gross pecuniary gain derived from the crime.
 - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of imprisonment for ten years.
3. A term of probation of at least one year but not more than five years.
4. \$100 special assessment.
5. Restitution.

FILED
09 FEB 10 PM 3:30
RICHARD H. BAKER
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
WHA

CR 09

0131

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
VENUE: SAN FRANCISCO

FILED
09 FEB 10 PM 3:39
RICHARD P.
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WHA

0131

CR 09

UNITED STATES OF AMERICA,
V.

CHENG YUAN LIN, aka C.Y. LIN

DEFENDANT(S).

INDICTMENT

Title 15 U.S.C. Section 1 (Conspiracy in Restraint of Trade)
COUNTS ONE and TWO

A true bill.

Amgehel Almerud
Foreman

Filed in open court this 10th day of

February, 2009 **BRENDA TOLBERT**
Clerk

NO BAIL ARREST WARRANT

MARIA ELENA JAMES
UNITED STATES MAGISTRATE JUDGE

FILED
09 FEB 10 PM 3:30
RICHARD J. JAMES
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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Attorneys for the United States

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WHA

UNITED STATES OF AMERICA

v.

CHENG YUAN LIN, a.k.a. C.Y. LIN,

Defendant.

No. **CR 09**
INDICTMENT

0131

VIOLATIONS:
Title 15, United States Code,
Section 1 (Conspiracy in Restraint of Trade)

San Francisco Venue

The Grand Jury charges:

COUNT ONE: 15 U.S.C. § 1 (Conspiracy in Restraint of Trade)

I.

DESCRIPTION OF THE OFFENSE

1. CHENG YUAN LIN, a.k.a. C.Y. LIN, is hereby indicted and made a defendant on the charge stated below.

2. Beginning at least as early as January 28, 1997, until at least as late as April 7, 2003, the exact dates being unknown to the Grand Jury, the defendant CHENG YUAN LIN and coconspirators joined, entered into, and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices, reducing output, and allocating market shares of color display tubes ("CDTs") to be sold in the United States and elsewhere. The combination and

INDICTMENT – PAGE 1

1 conspiracy engaged in by the defendant and coconspirators was in unreasonable restraint of
2 interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
3 U.S.C. § 1).

4 3. The charged combination and conspiracy consisted of a continuing agreement,
5 understanding, and concert of action among the defendant and coconspirators, the substantial
6 terms of which were to agree to fix prices, reduce output, and allocate market shares of CDTs to
7 be sold in the United States and elsewhere for use in computer monitors and other products with
8 similar technological requirements.

9 II.

10 MEANS AND METHODS OF THE CONSPIRACY

11 4. For the purpose of forming and carrying out the charged combination and
12 conspiracy, the defendant and coconspirators did those things that they combined and conspired
13 to do, including, among other things:

- 14 (a) attended meetings and engaged in conversations and communications in
15 Taiwan, Korea, Malaysia, China, and elsewhere to discuss the prices,
16 output, and market shares of CDTs;
- 17 (b) agreed during those meetings, conversations, and communications to
18 charge prices of CDTs at certain target levels or ranges;
- 19 (c) agreed during those meetings, conversations, and communications to
20 reduce output of CDTs by shutting down CDT production lines for certain
21 periods of time;
- 22 (d) agreed during those meetings, conversations, and communications to
23 allocate target market shares for the CDT market overall and for certain
24 CDT customers;
- 25 (e) exchanged CDT sales, production, market share, and pricing
26 information for the purpose of implementing, monitoring, and enforcing
27 adherence to the agreed-upon prices, output reduction, and market share
28 allocation;

- 1 (f) implemented an auditing system that permitted coconspirators to visit each
2 other's production facilities to verify that CDT production lines had been
3 shut down as agreed;
- 4 (g) authorized and approved the participation of subordinate employees in the
5 conspiracy;
- 6 (h) issued price quotations and reduced output in accordance with the
7 agreements reached; and
- 8 (i) took steps to conceal the conspiracy and conspiratorial contacts through
9 various means.

10 III.

11 DEFENDANT AND COCONSPIRATORS

12 5. Defendant CHENG YUAN LIN is a resident of Taiwan, Republic of China. During
13 the period covered by this Indictment, CHENG YUAN LIN was Chairman and Chief Executive
14 Officer of Chunghwa Picture Tubes, Ltd. ("Chunghwa"). During the period covered by this
15 Indictment, Chunghwa was a Taiwanese company engaged in the business of producing and
16 selling, among other things, CDTs to customers in the United States and elsewhere.

17 6. Various corporations and individuals not made defendants in Count One of this
18 Indictment participated as coconspirators in the offenses charged in Count One of this Indictment
19 and performed acts and made statements in furtherance of it.

20 7. Whenever in this Indictment reference is made to any act, deed, or transaction of
21 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
22 by or through its officers, directors, employees, agents, or other representatives while they were
23 actively engaged in the management, direction, control, or transaction of its business or affairs.

24 IV.

25 TRADE AND COMMERCE

26 8. CDTs are a type of cathode ray tube. Cathode ray tubes consist of evacuated glass
27 envelopes that contain an electron gun and a phosphorescent screen. When electrons strike the
28 screen, light is emitted, creating an image on the screen. CDTs are the specialized cathode ray

1 tubes manufactured for use in computer monitors and other products with similar technological
2 requirements.

3 9. During the period covered by Count One of this Indictment, the defendant and
4 coconspirators sold and distributed substantial quantities of CDTs in a continuous and
5 uninterrupted flow of interstate and foreign trade and commerce to customers located in states or
6 countries other than the states or countries in which the defendant and coconspirators produced
7 CDTs. In addition, payments for CDTs traveled in interstate and foreign trade and commerce.

8 10. During the period covered by Count One of this Indictment, the business activities
9 of the defendant and coconspirators that are the subject of Count One of this Indictment were
10 within the flow of, and substantially affected, interstate and foreign trade and commerce.

11 V.

12 JURISDICTION AND VENUE

13 11. The combination and conspiracy charged in Count One of this Indictment was
14 carried out, in part, in the Northern District of California, within the five years preceding the filing
15 of this Indictment, excluding the period during which the running of the statute of limitations was
16 suspended pursuant to agreement with defendant CHENG YUAN LIN.

17 COUNT TWO: 15 U.S.C. § 1 (Conspiracy in Restraint of Trade)

18 VI.

19 DESCRIPTION OF THE OFFENSE

20 12. CHENG YUAN LIN, a.k.a. C.Y. LIN, is hereby indicted and made a defendant on
21 the charge stated below.

22 13. Beginning at least as early as March 12, 1997, until at least as late as April 7, 2003,
23 the exact dates being unknown to the Grand Jury, the defendant CHENG YUAN LIN and
24 coconspirators joined, entered into, and engaged in a combination and conspiracy to suppress and
25 eliminate competition by fixing the prices of color picture tubes ("CPTs") to be sold in the United
26 States and elsewhere. The combination and conspiracy engaged in by the defendant and
27 coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in
28 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

14. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and coconspirators, the substantial terms of which were to agree to fix the prices of CPTs to be sold in the United States and elsewhere for use in television sets.

VII.

MEANS AND METHODS OF THE CONSPIRACY

15. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and coconspirators did those things that they combined and conspired to do, including, among other things:

- (a) attended meetings and engaged in conversations and communications in Taiwan, Korea, Malaysia, China, Thailand, Indonesia, and elsewhere to discuss the prices of CPTs;
- (b) agreed during those meetings, conversations, and communications to charge prices of CPTs at certain target levels or ranges;
- (c) exchanged CPT pricing information for the purpose of implementing, monitoring, and enforcing adherence to the agreed-upon prices;
- (d) authorized and approved the participation of subordinate employees in the conspiracy;
- (e) issued price quotations in accordance with the agreements reached; and
- (f) took steps to conceal the conspiracy and conspiratorial contacts through various means.

VIII.

DEFENDANT AND COCONSPIRATORS

16. Defendant CHENG YUAN LIN is a resident of Taiwan, Republic of China. During the period covered by this Indictment, CHENG YUAN LIN was Chairman and Chief Executive Officer of Chunghwa. During the period covered by this Indictment, Chunghwa was a Taiwanese company engaged in the business of producing and selling, among other things, CPTs to customers in the United States and elsewhere.

IX.

19. CPTs are a type of cathode ray tube. Cathode ray tubes consist of evacuated glass envelopes that contain an electron gun and a phosphorescent screen. When electrons strike the screen, light is emitted, creating an image on the screen. CPTs are the specialized cathode ray tubes manufactured for use in television sets.

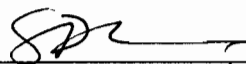
21. During the period covered by Count Two of this Indictment, the business activities of the defendant and coconspirators that are the subject of Count Two of this Indictment were within the flow of, and substantially affected, interstate and foreign trade and commerce.

JURISDICTION AND VENUE

INDICTMENT – PAGE 6


1 DATED: 2/10/09

A TRUE BILL

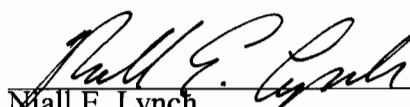
2 
3 Scott D. Hammond
Acting Assistant Attorney General



FOREPERSON

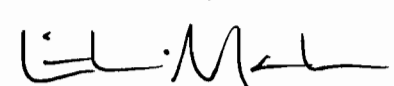
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